BECKER MUST DIE; A THIRD

Continued from First Page

who were asked for opinions after the Court of Appeals decision against

Becker yesterday. Three courses are open now Becker and his lawyers, said District Attorney Perkins-intervention by Gov. Whitman, whose present high office is largely due to his prosecution of Becker and of other criminals uncovered by ground of newly discovered evidence. or, finally, an attempt to get the case before the Federal judiciary, either on a writ of habeas corpus or on a writ of error on constitutional questions.

What Gov. Whitman would or would not do if asked to pardon or commute to life imprisonment on the plea of a man the Governor believes is guilty of swered by any one except the Governor himself. A few were heard yesterday to say that "it would be a noble act" on the part of the Governor to commute Becker's sentence, but persons holding this opinion are very few.

Won't Ask for Pardon.

Martin T. Manton, furthermore seemed to eliminate possibilities of executive pardon or commutation when he was told yesterday while trying a case before Justice Giegerich in the Bronx Supreme Court of the decision against Becker.

"The only thing I will say now," said Mr. Manton after expressing his surprise and regret over the decision of the lieve that Becker would have been so Court of Appeals. "is that Becker will foolish as to order or induce the murnever ask Whitman for a commutation of sentence. I shall try to see Becker in Sing Sing to-night."

for Becker's second chance-a therein. third trial on the ground of newly discovered evidence-also was thought by most of the lawyers seen yesterday to be very slim. The belief seemed to be

to the United States Supreme providing the District Court Judge who gives the denial consents to the appeal. The initial appeal to a District Court Judge does not act as a stay of the execution of the condemned. Consent by the District Court to the appeal to the United States Supreme Court does act, however, as a stay of

Must Show an Error.

But hopes of Federal interference in added that in order to get consideration from the United States Supreme Court the defendant must show that there was the defendant must show that there was an error or errors during the murderer's to affirm if the trial was fair and without errors. No Federal question entered into the trial, Mr. Perkins said. "We are to see to it that the trial was fair and to see there was sufficient evidence within recognized rules of law to support the verdict; this down to-day it is my belief that a condemned man should begin to make his peace with his God."

Becker's wife was teaching in Public Becker's wife was t

it was she asked that the Albany despatch be read over the telephone to

Mrs. Becker was asked whether an

Police Lieutenant John Becker, brother of Charles, at present is attached to the Hunter's Point station, but he was not there yesterday, At John Becker's home, 484 Eleventh avenue, Hunter's Point last night. He was granted a leave of twenty-four hours, beginning at 8 o'clock yesterday morning. Whenever he gets a leave, it was said, he goes out of town. Jackson Becker, and the fire. Rose, Webber and Vallon admit their own complicity in the grant their own complicity in the crime but claim to have been set in motion by Becker. Upon the truth motion at that fact indicated the murder was committed the jury might find that that fact indicated

present plight were expressed by Lawyer Joseph A. Shay, who assisted John F. McIntyre after Becker's first conviction and prepared the appeal, which resulted a year ago last February in the resulted a year ago last February in the charged) it was necessary, in order dence as to the Harlem meeting is granting of a second trial.

"Becker Is Innocent."

"I haven't seen the opinion," Mr. Shay eaid last night, "and therefore can say little and only speak in a general way. But I do not believe Becker ever will But I do not believe Becker ever will die in the electric chair. That would be judicial murder. Becker is innocent, and that statement isn't guessmany murderers would escape the reception of the testimony of Mrs.

roborative witnesses at the second trial loudly that were no better. That negro, Marshall, her husband to fail because of the servock back all his testimony, and Mrs. vices Jacob and Morris had rendered the State in the Rosenthal case.

At the District Attorney's office it said yesterday that no promises said yesterday that no promises given in anger at a time when her hus-band had been executed and the man she was testifying against had not."
"I'm not Becker's lawyer now," said Harford T. Marshall, of counsel for Becker at his second trial, "and I can say little except that I am greatly say."

Whitman. say little except that I am greatly sur-prised at the verdict. I never believed that the testimony of the biggest bunen of perjurers that ever faced a jury would be believed, but evidently it has

COURT RULES OUT EVERY. POINT IN BECKER APPEAL

TRIAL DENIED Decision Written by Chief Judge Bartlett Also Upholds Seabury's Conduct of Case-Judge Hogan Alone Dissents From Ruling.

> Bartlett's decision denying ex-Police statute has safeguarded the defendant Lieutenant Charles Becker a new who is assailed by such testimony by trial in part follows:

"As has often been said, proof of the be supplemented by corroborative evi-existence of a particular motive is not dence pointing to him as the guilty the Becker trials; a new trial on the essential to establish the guilt of a person accused of crime.

"But when the existence of a parthe crime. A cogent argument in fa- they should give. vor of the defendant in this respect first degree murder could not be an- merits consideration. It is said that inasmuch as Rosenthai had just taken steps to make public his charges against the defendant by offering them to a prominent New York newspaper, Lieut, Becker must have known that any attack upon Rosenthal at that time would almost certainly be Becker's chief counsel in his last trial, attributed to his agency, and therefore that a man of his intelligence, however inimical he might be to Rosen thal, would not have permitted a murderous assault upon him at a juncture when the circumstances would al most unerringly point to him as the

"The sum and substance of the ar gument is that it is impossible to beder to be committed at a time when he himself would almost certainly be the one man in the city of New York who would be suspected of complicity

Criminals Usually Blunder.

"This was a proper matter to be considered by the jury and we mus that the defence, during two trials and assume that they considered it. It cantwo appeals, had marshalled all the evi-dence that work and money could un-that a jury is bound to hold that a not be laid down as a matter of law specified event has not occurred be-In the matter of taking the case into cause its occurrence involves unwise the United States Courts, a proceeding or foolish or blundering conduct on that came to many minds yesterday as the part of the accused person. Insoon as the news of the decision was deed, the propensity of criminals to received here. Becker can sue, it was said at the District Attorney's office, in blunder has long been recognized as United States District Court for a a characteristic of great value in the writ of habeas corpus. Such a pro-cedure, if precedent is followed, will ports of England and this country are result in the District Court denying the full of cases in which guilt has been fastened upon the defendant by rea-From this denial Becker next may son of the omission of some slight precaution or the commission of some apparently insignificant act which would have seemed almost impossible in the case of a person of ordinary

"Extensive as is the power of repeal from a judgment of both, the law spirators to it. does not intend to substitute the confrom the evidence by seven Judges for the conclusions of fact which have 's behalf seemed to be all washed been drawn from the evidence by when the District Attorney's office twelve jurors, unless we are clear that the view of the facts taken by the jury is wrong. It is our duty

"The case as presented upon the necting him with the crime." second trial differed materially from that the prosecution relied mainly the case as presented upon the first, upon the evidence of Vallon, Police The actual killing of Rosenthal by Commissioner Dougherty and Becker's Mrs. Becker was asked whether an appeal would be made to Gov. Whitman, She said in broken tones that she had no statement to make of any kind. Callers during the late afternoon at her home at 2291 University avenue, The Brønx, where Mrs. Becker lives with her brother, John Lynch, and her sister, were told by John Lynch that Mrs. Becker was not at home and "probably would have nothing to say" if she were. Police Lieutenant John Becker, brother of Charles, at present is attached to the Sam Paul excursion, who dreaded the destruction of their business by Rosen-

Stanch belief in Becker's innocence or falsity of their testimony to this might find that that fact indicated and consequent sympathy for him in his effect depends the guilt or innocence cognizance of a probability at least

testimony, that it should be corrobo- the first trial, rated by other evidence tending to implicate the defendant in the murder. very bad men; accomplices in murder put to death at Sing Sing.

always are, but it is almost a truism

work, but is made because of my knowledge of the facts involved.

"No man should be put to death on the testimony of the witnesses who testified against Becker. The new corroborative witnesses at the second trial were no better. That negro, Marshall, were no better. That negro, Marshall, were no better.

Webber Sorry for Becker.

Bridgie Webber, who has been so suc-Bridgie Webber, who has been so successful as a manufacturer of paper boxes at Passaic since confessing his part in the murder of Rosenthal that recently he had to build an addition to his factory, was found playing pool last night in a "parlor" next door to the Passaic police headquarters.

Bridgie was told of the Court of Anglesia was told of the Court o

would be believed, but evidently it has been."

"The decision is absolutely just," said ex.District Attorney Frank Moss. "I never prosecuted a man I didn't think guilty. I think Becker abosultely guilty, and the decision only what was expected by all familiar with the testimony," a sentiment also expressed by Dixtrict Attorney Perkins.

Mrs. Jacob Luban, whose husband fisured in the Rosenthal case as an investigator and a gatherer of witnesses for the prosecution while Jacob's brother, Morris, was a witness against Becker, has been making trouble around the District Attorney's office recently.

Especially during the last few days.

The night before last Mrs. Jacob Luban, following the sentencing of her husband to twenty years by County in the Rosenthal that the verdict part of Rosenthal that the conduct of the park of the murder of Rosenthal that the chad to build an addition to his factory, was found playing pool last night in a "parlor" next door to the Passaic police headquarters.

Bridgie was told of the Court of Appeals verdict against Becker. After making brief comments Bridgie resumed his game, but it was noticed that he missed his next three shots.

"My sympathies of course," said Bridgie after opening with the standard line that the verdict speaks for itself, "are with Lieut. Becker. He as well as I made a mistake and I'm sorry for him. The evidence against Becker was so strong there couldn't have been any on the decision. No, I don't think Whitman will pardon Becker. Whitman will pardon Becker. Whitman prosecuted him, so it isn't likely he'll let Becker off now."

ALBANY, May 25 .- Chief Justice | punishment which they deserve. Our prohibiting a conviction upon that alone and by requiring that it shall party. The jury were properly warned that in weighing the words of Rose, Vallon and Webber the fact that these witnesses had been granted imticular motive is suggested it becomes munity, provided they did not actuexceedingly important to inquire as taken into account, and the further ally fire to the probability or possibility of its fact that they had an interest to having been the actuating cause of shield themselves in the testimony

Plenty of Evidence.

"After the most careful consideration which I have been able to give the question I cannot escape the conclusion that there is evidence in the record other than that of the accomplices tending to connect the defendant with the commission of the crime. "The principal sources of corroboration relied upon by the prosecution

"1. The testimony of the colored man, James Marshall, as to the pres- Lillian Rosenberg, wife of Lefty Louie, ence of Rose at the so-called Harlem to the effect that on the evening after conference.

"2. The testimony of Deputy Com-missioner George A. Dougherty to the where he met the other gunmen and effect that the defendant on the 18th after a conference with them in an of July, 1912, denied that he had seen adjoining room the party separated, or heard from Rose since the Thursday or Friday before the homicide have been relevant," says the court.

(which occurred on Tuesday, the 16th), "Rose had previously testified that complicity in the murder; and

Plitt, a former friend and intimate violent inference from Mrs. fendant expressly warned him before- spiracy to kill involves the employon the night when the murder was is not necessarily so limited as to excommitted.

"The witness Schepps, who was the killing. sworn in behalf of the People in the first trial to furnish the necessary before.

it is a matter of importance that there | Judge Bartlett says as to the the severe criticisms which on the Seabury's charge: former appeal were passed on the Harlem conference because of the fall- rulings upon the numerous requests. ure to call the chauffeur who was said view invested in this court on an ap- to have conveyed some of the con-

Failed to Call Witness.

"On the first trial not only did the People, who knew the identity of this man, fail to call him, but it was fairly inferable that his identity had been so obscured that the defence was not af-

Appeals had refused a new trial to her husband. There was a long pause after Mrs. Becker had heard the news.

"Are you sure, quite sure, your information is authentic?" Mrs. Becker asked then, and when she was assured it was she asked that the the case as presented upon the sired."

Who Was the Instigator?

"The case as presented upon the sired."

The opinion holds that the corroboration offered by the prosecution was "of a character and quality which tends to prove the defendant's guilt by connecting him with the crime." It shows

The court also upholds Justice Seabury's ruling out of the alleged con-"Of course these accomplices were fession of Dago Frank before he was Judge Bartlett says that the counse

SPECIAL NOTICES.

There is Nothing Like a Trip to Yellowstone National Park

I know of no other spot in all the world that is in any way similar to Yellowstone. It offers to the vacation seeker, weary of the sameness in ocean or land travel or the monotony of the seashore or mountains, a distinctive outing unrivaled.

Imagine the fascination of a six day stage tour of this Great National Park, stopping daily at picturesque and well kept hotels. Think of geysers, throw-

History of the Becker Case

July 11, 1912-Rosenthal accused Becker of collecting graft.

July 15-Rosenthal promised to tive District Attorney Whitman proof on the following day.

July 16-Rosenthal murdered in ront of Hotel Metropole.

July 17-Louis Libby and William hapiro arrested. July 18-Jack Rose surrendered. July 21-Louis Webber arrested.

July 25-Dago Frank Cirofici arested July 29-Rose, Webber and Vallon onfess; Becker arrested.

September 14-Harry Horowitz Gyp the Blood) and Louis Roseners (Lefty Louis) arrested. October 7-Becker's trial began. October 30-Becker sentenced to

die in week of December 9. November 14-Four gunmen con-February 24, 1914—Becker got new ial; gunmen's conviction sustained.

April 13-Gunmen electrocuted. 6-Becker's second trial May 22-Becker found guilty.

May 29-Becner sentenced to die July 6. June 4-Stay of execution granted pending appeal.

May 25, 1915-Conviction affirmed and Becker ordered to die in the electric chair.

the murder her husband brought a "This evidence seems clearly to

when he must have known that Rose earlier on the same day Webber at was then in hiding in the city and Becker's express request had given was being sought by the police for him \$1,000 to pay the gunmen with and he had handed it over to Lefty "3. The testimony of one Charles B. Louie. It certainly would not be a associate of Becker, who appears to berg's testimony that he divided this have turned against him since his blood money with his associates on first trial, to the effect that the de- the occasion mentioned. Where a conhand to keep away from Times Square | ment of hireling murderers the proof clude all evidence of occurrences after

"The fulfilment of the agreement by the subsequent payment and receipt corroboration, was not called upon the of the sum agreed upon is a relevant second trial. The prosecution now fact and therefore, properly provable relied chiefly upon the evidence of —just as it would be relevant by way Marshall, Dougherty and Plitt, two of of defence to show that no money had whom had not testified in the case ever been paid to the actual slayers at the instance of the person accused "In addition to these considerations of having procured their employment," is lacking on this appeal the basis for gations of the unfairness of Justice

"I can find no error of law either in People's case in respect to the alleged the body of the charge itself or in the

Governed by Law.

The opinion of the court concludes: "We desire that the views which ead us to affirm this judgment shall be made unmistakably clear. Doubtless a very strong argument can be made in favor of the defendant, based upon the inducement of the avowed accomplices to swear falsely.

5% **GUARANTEED FIRST** MORTGAGE CERTIFICATES

\$100 and up LAWYERS MORTGAGE CO.

Capital, Surplus & Pr.\$9,000,000

10 Liberty St., N.T. 184 Montague St., Bkn

disposition of criminal appeals are to be changed merely because there might have been a refusal to convict on this evidence, we think (1) that they required the submission of the issue of fact to the jury; (2) that the case was fairly and impartially tried; (3) that no errors of law were committed prejudicial to the defendant, and (4) that the verdict canno deemed to be against the weight of evidence or against law within the meaning of section 528 of the Code of Criminal Procedure. It is not our duty to try the case over again upon the printed record. We have not seen the witnesses. We are deprived of the aid furnished by their appearance, demeanor, facial expression and manner of testifying. These advantages the jury enjoyed, and there being sufficient evidence in quantity and quality to take the case to the jury, their verdict, in the absence of any of the statutory grounds for reversal, is conclusive even upon the Court of Ap-

MRS. BROADHURST ANGRY.

Paying Up Alimony. Mrs. Ida Raymond Broadhurst, who got a decree of separation from George Broadhurst, playwright, wants to punish ause he has failed to pay her alimony \$750 a month since last October got an order yesterday requiring her husband to show cause on Friday why he should not be punished, but the order can't be served on Broadhurst because his wife doesn't know where he is. He was in Philadelphia when last heard from and failed to keep a er husband is receiving large royalties om his latest plays, "Innocent" and The Law of the Land" and that his esent income is \$150,000 a year. royalties are paid over to the play-wright's brother, Thomas Broadhurst, under an arrangement by which Mrs. roadhurst is unable to touch them.

ADELE BLOOD GETS DIVORCE.

Actress Wins Suit Against Actor Clergyman Husband.

Supreme Court Justice Page granted divorce yesterday to Adele Blood, an ctress, in her suit against Edwards avis, an actor, who was formerly the infirmed the report of the referee who ok testimony in the case and who k testimony in the case and who dictiment charges Grout, as president of dictiment charges Grout, as president of dictiment charges Grout, as president of the now defunct Union Bank, with overstating the assets of that institution by \$2,240,646.54. The

Child Killed by Automobile.

Stella Goldberg, 31/2 years old, who

GROUT TRIAL HALTS ALMOST AT START

Counsel for Defendant Objects to 85 Items Not Included in Indictment.

BRIEFS ARE SUBMITTED

The trial of ex-City Comptroller Edward M. Grout for perjury was halted temporarily at the beginning of the afternoon session yesterday, when Stephen H. Baldwin, counsel for the defendant, objected to certain matter which District Attorney Cropsey had begun introduce in his opening address. County Judge Lewis, before whom the case is being tried, granted an adjournment until to-day to give both sides an opportunity to prepare and submit

The matter to which Mr. Baldwin objected was first called to his attention Thursday, at which time he was served with notice that Mr. Cropsey would refer to it in his opening address to the jury. It consists of eightyfive items not included in the original indictment, which contains forty-eight. Mr. Cropsey had covered the forty-eight in a three hour speech in the forenoon and was just taking up the first of the eighty-five at the resumption of the trial after the luncheon recess when Mr. Baldwin interposed.

Before permitting argument on the question Judge Lewis directed the jurors to withdraw. The question was simply of the "ministering angels" in Dr. Julia this: Whether Mr. Cropsey had il- Seton Sears's New Thought Church legally added eighty-five items to the helped Dr. Sears get divorce evidence original indictment, as Mr. Baldwin contended, or was merely exercising his rights in outlining these as evidence.

Mr. Baldwin held that their introducWarren, to get divorce evidence against tion violated the rights of his client. and that unless Mr, Cropsey had been conscious of this he would never have after Mrs. Sears had been divorced wit taken the trouble to serve him with otice on Thursday.

No Time to Prepare.

properly its case and practically nulli-fled the advantage gained by Mr. Grout when a Supreme Court Justice granted his application to inspect the Grand Jury minutes. He said some of the jou get in here?" The woman with items were new to him and that of Elberson was crying hysterically, Sears those that were not at least three had been thrown out by the Grand Jury "It is not my fault. was married." "It is not my fault. I didn't know he was married."

Asked by Judge Lewis if he was seeking delay, Mr. Baldwin replied indignantly that it was Mr. Cropsey who would impose it, if any occurred, with a view perhaps to holding up the trial until fall so he could make political capital out of it when he came up for Mr. Baldwin pointed out that the

known as Jule Power.

Justice Page also exonerated Mrs.

Davis of the accusations made by her husband in his counter suit. A suit by Esmelton Bryant, a stage manager, to only total \$40,000—Mr. Cropsey not only livorce Mrs. Louise Power Bryant is does a grave injustice to the defence, according to Mr. Haldwin, but actually nullifies his own indictment. In opposing Mr. Baldwin's motion to strike out the additional items Mr.

Cropsey again attacked former Supreme Stella Goldberg, 3½ years old, who lived at 1515 Madison avenue, while crossing Fifth avenue between 102d and 103d streets yesterday ran away from her nurse and was killed by an automobile owned by Christian E. Herbst of 593 Third street, Brooklyn. Mrs. Herbst was in the automobile, which was driven by Edward Tracy of 322 Nineteenth street, Brooklyn. ment he (Cropsey) had made

and had set forth many particulars. The eighty-five were added for good measure, as it were. Mr. Cropsey said he would use these as corroborative evidence and had merely given notification of his indesire to deal fairly with the defence. The briefs were submitted last evening so Judge Lewis could read them overnight and pass on the question at the resumption of the trial to-day. Panama Exposition

Mr. Cropsey charged that the assets of both banks had been juggled for the benefit of the bank officials and their friends, and while emphasizing this he

panies whose illegal operations had gone

on for years and whose accounts, grossly misrepresented, were carried on the books of the bank where Mr. Grout was

n duty bound to scrutinize and weigh

Attention was called also to the charge

that Mr. Grout must have known that many of the items carried on the bank's books as assets were actually worthless.

sel to the bank, had proved these paper

SEARS DIVORCE DEBT REPAID.

Son's Testimony Aids Woman Who

Assisted His Mother.

before Supreme Court Justice Page ves

her own husband, Leon W. Elberson, in

the Gerard Hotel.
The testimony showed that shortly

the help of Mrs. Elberson the latter

and Warren Sears and his friend Gordon

Mrs. Stella A. Elberson, who as one

You will find the Butterick In his opening address Mr. Cropsey sprang his first big surprise in the thoroughness with which he went into the history of the old Mechanics and Building at San Francisco an interesting feature of the Exposition. Butterick mer-Traders Bank, and of the Union Bank which arose from its ruins, only to col-lapse again. In amazing detail he showed chants, Butterick readers and Butterick advertisers - in how \$7,000,000 of assets had shrunk to less than \$5,000,000, and said that he would show that Mr. Grout had guilty knowledge of the shrinkags when he falsely swore to a statement prepared for the State Banking Department. fact every one will receive there a hearty welcome.

The

In this connection it is significant that Butterick took first honors at

Chicago in 1893 Paris in 1900 Buffalo in 1901 St. Louis in 1904 Vienna in 1906 Berlin in 1906 Petrograd in 1907 London in 1908

friends, and while emphasizing this he would turn back every little while to the allegation that Mr. Grout must have been thoroughly familiar with the condition of the bank and the manifold friegularities which led up to it.

According to Mr. Cropsey there is no ground for the contention that Mr. Grout was duped by others or was the unfortunate victim of circumstance. He called attention to half a dozen dummy companies whose illegal operations had gone The Butterick Building a the Exposition will be readily found in the Varied Industries Palace.

We shall be glad if you will make the Butterick Exhibit your headquarters and have your mail addressed there.

BUTTERICK



SPECIAL NOTICES.

Allen's Foot-Ease for the Troops

became suspicious of her own husband, the antiseptic powder to Shake into This notice, coming at the eleventh hour, as Mr. Baldwin put it, left the defence no time in which to prepare Gerard Hotel. Young Sears testified that Mrs. Eiberson accompanied them and that when Eiberson saw the three enter the room he swore and said, "How the development of the store at walking easy, Sold everywhe Sample sent FREE. Address Olmsted, Le Roy, N. Y.

WASINGTON, May 25. physical valuation of Yesemite

Get Quality Town Talking About Your Shop

BY PHILIP GOODMAN

DR. JOHNSON used to say, "I had the people of England thinking Johnson, talking Johnson and finally acting Johnson."

It is but a sequence---once get Quality Town talking about you and your success is sure.

Quality Town makes and unmakes scores of shops every year.

Let us work hand-in-hand to bring Quality Town to your door.

"Rent" part of The Sun for your show-window---let every man and woman in Quality Town see what you have that's really different.

Quality Town is easily persuaded when the newspaper beloved by all in Quality Town offers an indorsement.

We stand ready to sponsor you.



Every Morning Including Sundays Every Evening Excepting Sundays

KAFFEEHAG

Caffeine-freed COFFEE NOT A SUBSTITUTE

DON'T DRUG YOURSELF

Why continue to drug yourself with the coffee drug Caffeine and then try to amend matters with more drugs? Stop drinking ordinary coffee right now drink only Kaffee HAG, the caffeine-free coffee. Try it for about ten days, you'll miss none of the pleasures of your morning cup, because Kaffee HAG is as good tasting coffee as you ever drank.



ALL OF THE DELIGHTS NONE OF THE REGRETS